REMARKS

Claims 1-18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Rich (USP 7,054,790). This rejection is traversed because Rich, at a minimum, fails to describe or suggest a data accessing apparatus for writing/reading data to <u>a recording medium in which a parameter showing the data transfer efficiency at writing the data per the data size is recorded</u>, the data accessing apparatus including, among other features, <u>a device for issuing a parameter acquisition command to the recording medium</u> and <u>a device for selecting an optimum data size at writing the data by collating the parameter transmitted by the recording medium which received the parameter acquisition command with the data transfer efficiency required in the data to be written/read by the data accessing apparatus</u>, as recited in claim 1.

Rich relates to "a method for measuring performance of a storage device including rotatable media, for storing data to and/or retrieving data from said media." Rich at col. 2, lines 4-7. Referring to FIG. 3 of Rich, the method includes steps of "specifying one or more access patterns for transferring data to/from the media; and for each access pattern, specifying one or more different required data transfer rates, measuring the actual data transfer time of the storage device for transferring said data according to that access pattern, and determining performance of the storage device in relation to each required data transfer rate based on the actual data transfer time for said data." Rich at col. 2, lines 7-15.

The Office Action asserts that the access patterns correspond to "a parameter showing the data transfer efficiency at writing the data per the data size is recorded," recited in claim 1. *See e.g.*, Office Action at page 3. Applicants disagree because the alleged access patterns are not recorded in a recording medium. In contrast, the alleged access patterns are recorded into a test

system 22 via the module 24 as described in column 13, lines 54-56 of Rich. As such, Rich fails to describe or suggest a data accessing apparatus for writing/reading data to *a recording medium in which a parameter showing the data transfer efficiency at writing the data per the data size is recorded*, as recited in claim 1. Consequently, Rich also fails to describe or suggest a device for issuing a parameter acquisition command to the recording medium and a device for selecting an optimum data size at writing the data by collating the parameter transmitted by the recording medium which received the parameter acquisition command with the data transfer efficiency required in the data to be written/read by the data accessing apparatus, as recited in claim 1.

For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

Claim 6 recites a data accessing apparatus for writing/reading data to a recording medium in which a parameter showing the data transfer efficiency at writing the data per the data size is recorded, the data accessing apparatus including, among other features, a device to set the data size at writing the data based on an information showing an optimum data size transmitted by the recording medium which received the information showing the required data transfer efficiency so as to write/read the data to the recording medium based on the set data size. Therefore, for at least the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6.

Claim 11 recites a data accessing method that includes, among other steps, a step in which a parameter showing the data transfer efficiency is previously recorded into the recording medium at writing the data into the recording medium per the data size; a step in which the data accessing apparatus transmits a parameter acquisition command to the recording medium at writing/reading the data; a step in which the recording medium that received the parameter

acquisition command transmits the parameter to the data accessing apparatus; and a step in which the data accessing apparatus that received the parameter collates the parameter with the data transfer efficiency required in the data to be written/read by the data accessing apparatus to thereby set an optimum data size at writing the data. Therefore, for at least the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 11.

Claim 15 recites a data accessing method that includes, among other steps, a step in which a parameter showing the data transfer efficiency is previously recorded into the recording medium at writing the data into the recording medium per the data size; a step in which the data accessing apparatus transmits an information to show the data transfer efficiency required in the data to be written/read by the data accessing apparatus to the recording medium at writing the data; a step in which the recording medium that received the information to show the required data transfer efficiency collates the information concerned with the parameter to thereby select an optimum data size at writing the data; and a step in which the recording medium transmits an information to show the selected optimum data size to the data accessing apparatus. Therefore, for at least the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 15.

Dependent Claims

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.,* 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Because claims 1, 6, 11, and 15 are allowable for the

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reasons set forth above, it is respectfully submitted that all claims dependent thereon are also allowable. In addition, it is respectfully submitted that the dependent claims are allowable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are allowable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 102 be withdrawn.
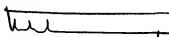
Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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